

REMARKS

In response to the Restriction Requirement mailed June 28, 2004, Applicants elect with traverse Group V, Claims 20-29, 54 and 57, drawn to DNA, vector and host cell, classified in class 435, subclass 252.3. Further, Applicants elect the nucleotide sequence SEQ ID NO: 37, encoding the polypeptide SEQ ID NO:38.

Applicants traverse the restriction requirement. The claims of Group V are drawn to nucleic acids. The claims of Group VII (*i.e.*, claims 34-36 and 61-62) are drawn to a method of determining the presence or amount of the nucleic acid of Group V. Applicants submit that these two groups of claims are not distinct because by detecting (claims of Group VII) the nucleic acid (claims of Group V), Group VII becomes part of Group V. Thus, Applicants submit that a search of the nucleic acid sequence of SEQ ID NO:37 (Group V) would also identify methods of determining the presence or amount of SEQ ID NO:37 in a sample (Group VII) and methods of determining the presence of or predisposition to a disease associated with altered levels of nucleic acid sequence SEQ ID NO:37. Therefore, joinder of Groups V and VII would not present a serious burden for the Examiner.

The M.P.E.P. §803.02 (Eighth Edition, August 2001, revised February 2003) states:

If the search and examination of an entire application can be made without serious search burden, the Examiner must examine it on the merit, even though it includes claims to independent and distinct inventions.

Therefore, Applicants submit that in accordance with M.P.E.P. §803.02, the claims of Groups V and VII should be examined together because the search and examination of these claims would not unduly burden the Examiner.

Claims 1-19, 30-33, 37-53, 55-56, 58-60 and 63-64 have been canceled without prejudice or disclaimer as drawn to non-elected subject matter. Claims 23 and 26, drawn to elected subject matter, have been canceled without prejudice or disclaimer. Applicant reserves the right to pursue these claims in a later application. Claims 20-22, 24-25, 27 and 34 are amended herein to track the elected subject matter. Support for the amended claims presented herein is found in originally filed claims 1-64 and throughout the specification. No new matter has been added.

APPLICANTS: Mezes et al.
U.S.S.N.: 10/044,564

Upon entry of this amendment, claims 20-22, 24-25, 27-29, 34-36, 54, 57, 61 and 62 will be pending.

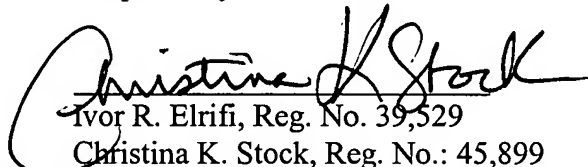
Applicants are filing this Amendment and Response in conjunction with a Petition Under 37 C.F.R. §1.48(b) along the appropriate fee under 37 C.F.R. §1.17(h) in order to delete those inventors who were correctly named in the instant application as filed, but are not inventors of the invention currently recited by the pending claims, as amended.

CONCLUSION

On the basis of the foregoing amendments and remarks, Applicants respectfully submit that this paper is fully responsive and that the pending claims are in condition for allowance. Such action is respectfully requested. If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,

DATED: August 30, 2004


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